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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/582,466	08/20/2007	Bernard Kraeutler	GER-0821	1111
23413	7590	03/18/2009	EXAMINER	
CANTOR COLBURN, LLP			KWON, PHILIP	
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			ART UNIT	PAPER NUMBER
			3634	
			NOTIFICATION DATE	DELIVERY MODE
			03/18/2009	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No. 10/582,466	Applicant(s) KRAEUTLER, BERNARD	
	Examiner PHILIP S. KWON	Art Unit 3634	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 June 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 June 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a) because they fail to show the means for winding the curtain as described in the specification. Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

2. Claims 1 and 6 are objected to because of the following informalities: the slideways and the guide heads have limitations that have the same names (i.e. back wall and lateral walls), please give them different names in order to avoid confusion (i.e. slide back wall and guide back wall).

Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claim 1 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

The means for winding the curtain is not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Where is this defined?

5. Claims 1 and 3 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The phrase "... the lateral walls bearing against the wing which is adjacent to it ..." is indefinite. Did applicant mean to say "... the respective lateral walls bearing against the respective wing against which it is adjacent to ..."?

The phrase "... each lateral wall of the sealing profile is dimensioned to bear against the wing of the slideway which is adjacent to it ..." is indefinite. Did applicant mean to say "... each respective lateral wall of the sealing profile is dimensioned to bear against the respective wing of the slideway which is adjacent to it ..."?

6. Claims 2-6 are rejected as being dependent on Claim 1.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

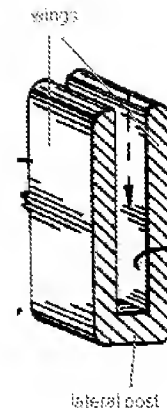
(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. **Claims 1, 3, and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Murray (US 5,117,892) in view of Simon (US 2003/0034135 A1).**

door ⓘ [dawr, dohr] ⓘ [Show IPA](#)

—noun

1. a movable, usually solid, barrier for opening and closing an entranceway, cupboard, cabinet, or the like, commonly turning on hinges or sliding in grooves.
2. a doorway: *to go through the door.*
3. the building, house, etc., to which a door belongs: *My friend lives two doors down the street.*
4. any means of approach, admittance, or access: *the doors to learning.*



[Claim 1] As best understood by the examiner ... Murray discloses a door (Fig. 1 – although Murray states that he has a window, it also fits the definition of a door, which is provided above. If a door and window are not held to be included by the above definition, then the window would be an obvious alternative) comprising:

two lateral posts (10 – Col. 2, lines 41-45; post 10 on each side) each having a slideway (11') bounded by two wings (see above),

a transverse element (2) connecting upper ends of the lateral posts;

a flexible curtain (3) having lateral edges engaging in each of the slideways; and

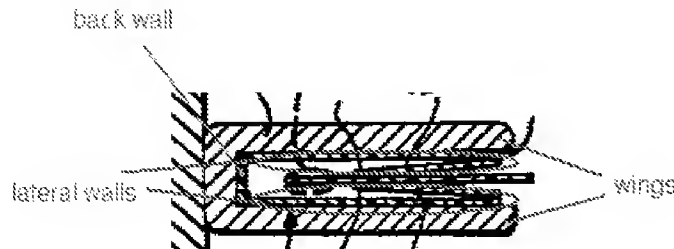
wherein each of the slideways is equipped with a sealing profile having a back wall (Fig. 5) and two lateral walls (15') substantially forming a U-shape, each of the respective lateral walls bearing against the respective wing against which it is adjacent to.

Murray fails to disclose a means for winding the curtain.

Simon teaches a means for winding the curtain (4) into a door-opening position. It would be obvious to one of ordinary skill in the art at the time the invention was made to apply Simon's teaching to Murray's device; one of ordinary skill in the art would have

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recognized that Simon's teaching can be applied to Murray's device through known methods and to yield predictable results.



[Claim 3] Murray in view of Simon discloses wherein each respective lateral wall of the sealing profile is dimensioned to bear against the respective wing of the slideway which is adjacent to it (see above).

[Claim 4] Murray in view of Simon discloses wherein the curtain has a continuous lateral edge (Murray – Fig. 1).

Murray in view of Simon does not disclose wherein the lateral edge is flattened by high-frequency welding; however, examiner notes the method of forming an apparatus is not germane to patentability of apparatus itself. Even though product-by-process claims are limited by and defined by the process, determination of patentability is based on the product itself. The patentability of a product does not depend on its method of production. If the product in the product-by-process claim is the same as or obvious from a product of the prior art, the claim is unpatentable even though the prior product was made by a different process." *In re Thorpe*, 777 F.2d 695, 698, 227 USPQ 964, 966 (Fed. Cir. 1985) (citations omitted)

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9. Claims 2 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Murray (US 5,117,892) in view of Simon (US 2003/0034135 A1) and Chigusa (US 5,137,072).

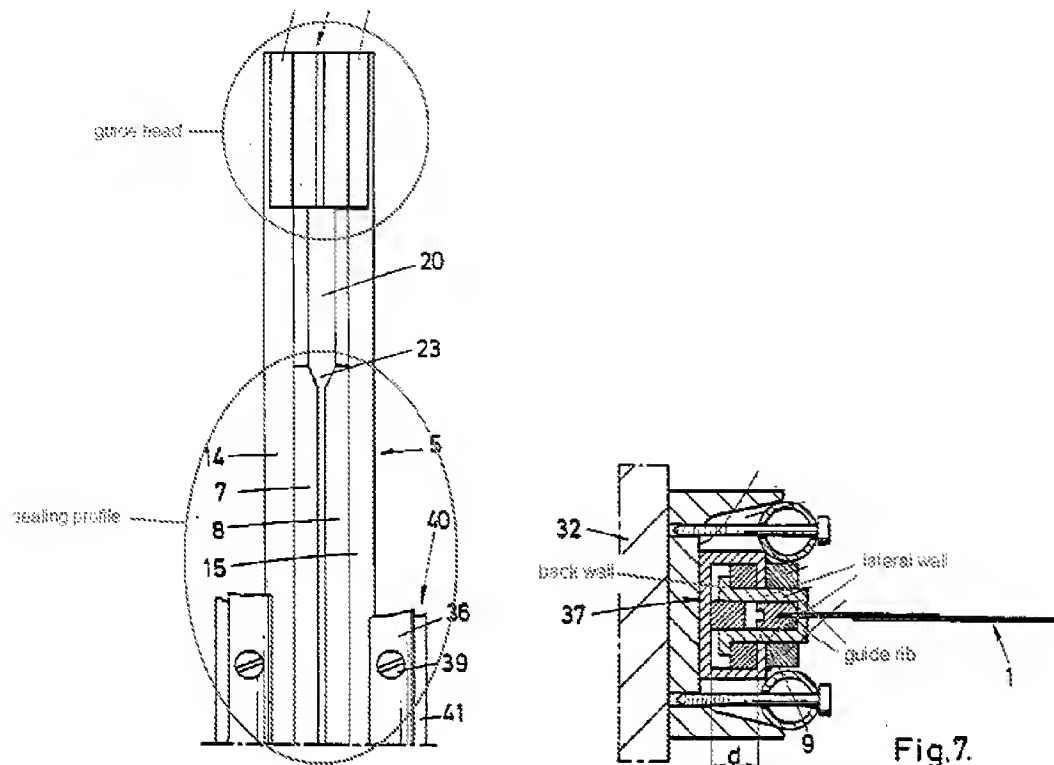
[Claim 2] Murray in view of Simon fails to disclose a lip.

Chigusa teaches a sealing profile (Fig. 2) wherein each lateral wall is provided with at least one lip (8) which is able to come into contact with a lateral edge of the curtain.

It would be obvious to one of ordinary skill in the art at the time the invention was made to apply Chigusa's teaching to Murray in view of Simon; one of ordinary skill in the art will recognize that Chigusa's teaching can be applied to Murray in view of Simon through known means and will yield predictable results.

[Claim 5] Murray in view of Simon and Chigusa discloses wherein each of the lateral walls and each lip are tapered at their ends (Murray - Fig. 5; Chigusa - Fig. 2).

10. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Murray (US 5,117,892) in view of Simon (US 2003/0034135 A1) and Coenraets (US 4,884,617).



[Claim 6] Murray in view of Simon fails to disclose a guide head.

Coenraets teaches a guide head (9, 10) having a U-shaped cross section comprising a back wall (see above) and two lateral walls (see above), each lateral wall being provided with a guide rib (see above), the guide head being positioned in a continuation with a sealing profile.

It would be obvious to one of ordinary skill in the art at the time the invention was made to apply Coenraets teaching to Murray in view of Simon; one of ordinary skill in the art will recognize that Coenraets teachings can be applied to Murray in view of Simon through known methods and will yield predictable results.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: see PTO-892 Notice of Reference Cited.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Philip Kwon whose telephone number is (571) 270-5230. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Katherine Mitchell can be reached on (571) 272-7069.

Any inquiry of a general nature or relating to the status of this application may be made through either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (BEC) at (866) 217-9197 (toll-free).

/Philip S Kwon/
Examiner, Art Unit 3634
/KATHERINE W MITCHELL/
Supervisory Patent Examiner, Art Unit 3634